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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/843,145	04/27/2001	Salil Pradhan	30014343 US	7305

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INTELLECTUAL PROPERTY ADMINISTRATION  
FORT COLLINS, CO 80527-2400

EXAMINER
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ELAHEE, MD S

ART UNIT	PAPER NUMBER
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2614

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/04/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No. 09/843,145	Applicant(s) PRADHAN ET AL.	
	Examiner Md S. Elahee	Art Unit 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2006.
- 2a) ☒ This action is FINAL.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-5,7-12,14,20-22 and 25-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,7-11,14,20-22 and 25-37 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Amendment*

1. This action is responsive to an amendment filed 10/13/2006. Claims 1-5,7-12,14,20-22 and 25-34 are pending. Claim 13 has been cancelled. Claims 35-37 have been added.

### *Response to Arguments*

2. Applicant's arguments in the claims 22, 25, 26 and 37 Remarks have been fully considered but are moot in view of the new ground(s) of rejection which is deemed appropriate to address all of the needs at this time.

3. The arguments in the claims 1-5,7-14,27-31 and 33 Remarks have been fully considered but they are not persuasive because of the following:

Regarding claim 1, the Applicant argues on page 10 that the reliance on **Scheer** is improper because the filing date of this publication is subsequent to applicants' filing date and the allegation in the office action that the patent publication has a priority date of the provisional application is incorrect. Examiner respectfully disagrees with this argument. According to MPEP, "If the application properly claims benefit under 35 U.S.C. 119(e) to a provisional application, the effective filing date is the filing date of the provisional application for any claims which are fully supported under the first paragraph of 35 U.S.C. 112 by the provisional application" and "In applications claiming priority under 35 U.S.C. 119(e), a statement such as "This application claims the benefit of U.S. Provisional Application No. 60/ - - -, filed - -" should appear as the first sentence(s) of the specification or in an application data

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sheet”. **Scheer** claims priority of US provisional application ser. No. 60/263,317 filed on Jan. 22, 2001 appear as the first sentence(s) of the specification. Therefore, examiner’s reliance upon **Scheer** for the priority date of Jan. 22, 2001 is proper.

The Applicant argues on page 11 that “paragraph 0256 of **Scheer** does not disclose changing message data of a reply at a broker device, as alleged in the office action”. The examiner respectfully disagrees with this argument. In paragraph 0256, **Scheer** discloses, after receiving “subscribe” performative, the broker sets up an entry to service this request, In reply to this request, the broker prepares status change messages and inform the distributor to send the status change messages. Therefore, it is clear that **Sheer** teaches changing message data of the reply at the broker device. Thus, the rejection of the claims in view of **Rautila** and **Scheer** will remain.

Regarding claim 1, the Applicant argues on page 11 that portion of **Todd** relied on by the examiner has nothing to do with the **Rautila** et al. advertising method. Examiner agrees with this argument. However, examiner didn’t rely upon **Todd** for the teaching of advertising method. Instead examiner relied upon **Todd** for the teaching of changing message data of the reply at the broker device (see col.5, lines 58-64). Therefore, the rejection of the claims in view of **Rautila** and **Todd** will remain.

Regarding claim 20, the Applicant argues on page 8 that **Konishi** has nothing to do with an advertiser or a replier to an advertisement. Examiner respectfully disagrees with this

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argument. **Konishi** teaches response message corresponding to a transmitted message [i.e., advertisement] (see col.2, lines 55-57). Therefore, the rejection of the claims in view of **Rautila** and **Konishi** will remain.

*Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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7. Claims 1-5,7-11,14,27-31,33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rautila et al. (U.S. 6,549,625) in view of Scheer (U.S. 2002/0161674).

As to Claims 1,27-30, with respect to Figures 1-4, Rautila teaches a method of advertising comprising:

broadcasting an advertisement via a short range link from an advertiser telecommunications device, 14, (Figure 1, labels 12,14);

receiving the broadcast advertisement on a consumer telecommunications device, 12, (Figure 1, label 12);

replying to the advertisement by sending a SMS message (reply message) from the consumer device to a broker device, 26 (Figure 1, label 26 and Col. 7, lines 1-10);

changing the SMS message to an acknowledgment message (reply) at the broker device (Col. 7, lines 1-10);

communicating the acknowledgement (changed reply) from the broker device to the advertiser device (Col. 7, lines 1-10).

However, Rautila does not specifically teach "changing message data of the reply at the broker device". Scheer teaches changing message data of the reply at the broker device (page 26, paragraph 0256). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rautila to change message data of the reply at the broker device as taught by Scheer. The motivation for the modification is to have doing so in order to deliver a updated message in response to a request of the recipient whenever he needs.

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As to Claim 2, Rautila teaches a method according to claim 1 in which the advertisement is broadcast to a man portable consumer device (Figure 1, label 12).

As to Claim 3, Rautila teaches a method according to claim 2 in which the consumer telecommunications device is a hand-holdable portable and pocketable device (Figure 2).

As to Claim 4, Rautila teaches a method according to claim 1 in which the advertisement is broadcast from a man portable advertiser device (Figure 1, label 14).

As to Claim 5, Rautila teaches a method according to claim 4 in which the advertiser device is a hand-holdable portable device (Figure 1, label 14).

As to Claim 7, Rautila teaches a method according to claim 1 in which the advertiser device does not include its own telecommunications address in its broadcast advertisement (Figure 3 and Col. 6, lines 48-60 and Col. 8, lines 63-67).

As to Claim 8, Rautila teaches a method according to claim 7 further including the step of including the telecommunications address of the broker device in the advertisement (Col. 7, lines 12-22).

As to Claim 11, Rautila teaches a method according to claim 1 in which the consumer device replies to an advertisement via long range telecommunications (Figure 1, label 42).

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As to Claim 14, Rautila teaches a method according to claim 1 comprising using a mobile telephone, personal digital assistant, or other small portable electronic devices for both the advertiser device and the consumer device, the advertiser and consumer devices both having both piconet short range and long range telecommunication capabilities (Col. 6, lines 23-47).

As to Claim 31, Rautila teaches a method according to claim 1, wherein the broker device changes the message sent by the consumer device by augmenting the message sent by the consumer device to enable modification of any follow-up message sent by the advertiser device (Col. 10, lines 1-8, 58-64 and Col. 5, lines 39-51).

As to Claim 33 is rejected for the same reasons as discussed above with respect to claim 22.

8. Claims 1-5,7-11,14,27-31,33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rautila et al. (U.S. 6,549,625) in view of Todd (U.S. 6,785,682).

As to Claims 1,27-30, with respect to Figures 1-4, Rautila teaches a method of advertising comprising:

broadcasting an advertisement via a short range link from an advertiser telecommunications device, 14, (Figure 1, labels 12,14);

receiving the broadcast advertisement on a consumer telecommunications device, 12, (Figure 1, label 12);



replying to the advertisement by sending a SMS message (reply message) from the consumer device to a broker device, 26 (Figure 1, label 26 and Col. 7, lines 1-10);

changing the SMS message to an acknowledgment message (reply) at the broker device (Col. 7, lines 1-10);

communicating the acknowledgement (changed reply) from the broker device to the advertiser device (Col. 7, lines 1-10).

However, Rautila does not specifically teach "changing message data of the reply at the broker device". Todd teaches changing message data of the reply at the broker device (col.5, lines 58-64). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rautila to change message data of the reply at the broker device as taught by Todd. The motivation for the modification is to have doing so in order to deliver a modified message in response to a request of the recipient whenever he needs.

As to Claim 2, Rautila teaches a method according to claim 1 in which the advertisement is broadcast to a man portable consumer device (Figure 1, label 12).

As to Claim 3, Rautila teaches a method according to claim 2 in which the consumer telecommunications device is a hand-holdable portable and pocketable device (Figure 2).

As to Claim 4, Rautila teaches a method according to claim 1 in which the advertisement is broadcast from a man portable advertiser device (Figure 1, label 14).

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As to Claim 5, Rautila teaches a method according to claim 4 in which the advertiser device is a hand-holdable portable device (Figure 1, label 14).

As to Claim 7, Rautila teaches a method according to claim 1 in which the advertiser device does not include its own telecommunications address in its broadcast advertisement (Figure 3 and Col. 6, lines 48-60 and Col. 8, lines 63-67).

As to Claim 8, Rautila teaches a method according to claim 7 further including the step of including the telecommunications address of the broker device in the advertisement (Col. 7, lines 12-22).

As to Claim 11, Rautila teaches a method according to claim 1 in which the consumer device replies to an advertisement via long range telecommunications (Figure 1, label 42).

As to Claim 14, Rautila teaches a method according to claim 1 comprising using a mobile telephone, personal digital assistant, or other small portable electronic devices for both the advertiser device and the consumer device, the advertiser and consumer devices both having both piconet short range and long range telecommunication capabilities (Col. 6, lines 23-47).

As to Claim 31, Rautila teaches a method according to claim 1, wherein the broker device changes the message sent by the consumer device by augmenting the message sent by the

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consumer device to enable modification of any follow-up message sent by the advertiser device (Col. 10, lines 1-8, 58-64 and Col. 5, lines 39-51).

As to Claim 33 is rejected for the same reasons as discussed above with respect to claim 22.

9. Claims 20,21,32 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rautila et al. (U.S. 6,549,625) in view of Konishi (U.S. 5,301,273).

As to Claims 20,21,32,34 with respect to Figures 1-4, Rautila teaches a server with database 26 (server) adapted to act as an advertisement broker device adapted to receive an SMS message (one of (i) an advertisement message or (ii) a reply message to an advertisement) and to forward the received message to a mobile terminal (remote telecommunications device) (Col. 10, lines 1-8 and 55-64);

the server being adapted to validate the user (modify the received message) so as to ensure, at least initially, that the mobile user is an authorized user to receive the additional information about the goods or service or other information sources (Col. 9, lines 15-20, 56-67, Col. 10, lines 1-8, 55-63).

However, Rautila does not specifically teach the server to ensure, at least initially, that no telecommunications address of an advertiser or replier to an advertisement is passed with the message that is transmitted by the server". Konishi teaches the bridge unit (fig.1, item 20a, fig.2) [i.e., server] to ensure, at least initially, that no telecommunications address of an advertiser or

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replier to an advertisement is passed with the message that is transmitted by the server (abstract; col.2, lines 52-58). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rautila to incorporate the server to ensure, at least initially, that no telecommunications address of an advertiser or replier to an advertisement is passed with the message that is transmitted by the server as taught by Konishi. The motivation for the modification is to do so in order to remove an address from a message to be transmitted so that the message can be broadcasting again.

10. Claims 22, 25, 26 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rautila et al. (U.S. 6,549,625) in view of Paltenghe et al. (U.S. 2001/0011250).

As to Claim 22, with respect to Figures 1-4, Rautila teaches a network comprising an advertiser device (fig.1, item 16, fig.3) comprising a first telecommunications device having both a short range transmitter and receiver (fig.1, item 14), and a long range telecommunication transmitter and receiver (fig.1, item 30, fig.3), a memory, and a control processor, the memory including all advertisement (fig.1; col.8, lines 5-13);

a consumer device (fig.1, item 12) comprising a second telecommunications device, having both a short range, piconet, transmitter and receiver, and a long range telecommunications transmitter and receiver, a memory and a control processor, the memory or the processor of the consumer device having an advertisement receiver which in use, is capable of receiving and storing advertisement (fig.2);

a server with database 26 [i.e., an advertisement broker device] contactable via wireless telecommunications with both the advertiser and consumer devices, the broker device being

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adapted to selectively pass advertiser details to the consumer device, consumer details to the advertiser device, or both, in response to triggering (Col. 9, lines 15-20, Col. 10, lines 1-8, 55-64).

However, Rautila does not specifically teach that block passage of advertiser details to the consumer device". (Note; examiner considers the claimed "or" in line 8 of the claim 22 as simple alternative "or", therefore, examiner selects only the claimed "advertiser details to the consumer device"). Paltenghe teaches that block passage of advertiser details to the consumer device (col.5, lines 58-64). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rautila to block passage of advertiser details to the consumer device as taught by Paltenghe. The motivation for the modification is to have doing so in order to prevent direct contact between advertiser and consumer.

As to Claim 25, Rautila teaches the network of claim 22 in which the broker device is connectable with the advertiser device and the consumer device via long range wireless telecommunications (fig.1).

As to Claim 26, Rautila teaches the network of claim 22 wherein each the telecommunication devices includes a hybrid telephone (Col. 8, lines 49-52).

As to Claim 37, Rautila does not specifically teach that block passage of address of the advertiser devices to the consumer device. Paltenghe teaches that block passage of address of the advertiser devices to the consumer device (col.5, lines 58-64). Thus, it would have been obvious to one of

ordinary skill in the art at the time the invention was made to modify Rautila to block passage of address of the advertiser devices to the consumer device as taught by Paltenghe. The motivation for the modification is to have doing so in order to prevent direct communication between advertiser devices to the consumer device.

11. Claims 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rautila et al. (U.S. 6,549,625) in view of Scheer (U.S. 2002/0161674) further in view of Paltenghe et al. (U.S. 2001/0011250).

Claims 35 and 36 are rejected for the same reasons as discussed above with respect to claims 22 and 37 respectively.

12. Claims 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rautila et al. (U.S. 6,549,625) in view of Todd (U.S. 6,785,682) further in view of Paltenghe et al. (U.S. 2001/0011250).

Claims 35 and 36 are rejected for the same reasons as discussed above with respect to claims 22 and 37 respectively.

*Allowable Subject Matter*

13. Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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*Conclusion*

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

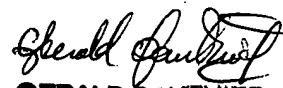
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Md S. Elahee whose telephone number is (571) 272-7536. The examiner can normally be reached on Mon to Fri from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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**GERALD GAUTHIER**  
**PATENT EXAMINER**

ME

MD SHAFIUL ALAM ELAHEE

December 26, 2006